

106TH CONGRESS
1ST SESSION

S. 1499

To amend title XVIII of the Social Security Act to promote the coverage of frail elderly medicare beneficiaries permanently residing in nursing facilities in specialized health insurance programs for the frail elderly.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 1999

Mr. MACK (for himself, Ms. MIKULSKI, Mr. GRAMS, Mr. WELLSTONE, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to promote the coverage of frail elderly medicare beneficiaries permanently residing in nursing facilities in specialized health insurance programs for the frail elderly.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare’s Elderly Re-
5 ceiving Innovative Treatments (MERIT) Act of 1999”.

6 **SEC. 2. MODIFICATION OF PAYMENT RULES.**

7 Section 1853 of the Social Security Act (42 U.S.C.
8 1395w–23) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1)(A), by striking “sub-
3 sections (e) and (f)” and inserting “subsections
4 (e) through (i)”;

5 (B) in paragraph (3)(D), by inserting “and
6 paragraph (4)” after “section 1859(e)(4)”; and

7 (C) by adding at the end the following:

8 “(4) EXEMPTION FROM RISK-ADJUSTMENT SYS-
9 TEM FOR FRAIL ELDERLY BENEFICIARIES EN-
10 ROLLED IN SPECIALIZED PROGRAMS FOR THE FRAIL
11 ELDERLY.—

12 “(A) IN GENERAL.—During the period de-
13 scribed in subparagraph (B), the risk-adjust-
14 ment described in paragraph (3) shall not apply
15 to a frail elderly Medicare+Choice beneficiary
16 (as defined in subsection (i)(3)) who is enrolled
17 in a Medicare+Choice plan under a specialized
18 program for the frail elderly (as defined in sub-
19 section (i)(2)).

20 “(B) PERIOD OF APPLICATION.—The pe-
21 riod described in this subparagraph begins with
22 January 2000, and ends with the first month
23 for which the Secretary certifies to Congress
24 that a comprehensive risk adjustment method-
25 ology under paragraph (3)(C) (that takes into

1 account the types of factors described in sub-
 2 section (i)(1)) is being fully implemented.”; and
 3 (2) by adding at the end the following:

4 “(i) SPECIAL RULES FOR FRAIL ELDERLY EN-
 5 ROLLED IN SPECIALIZED PROGRAMS FOR THE FRAIL EL-
 6 DERLY.—

7 “(1) DEVELOPMENT AND IMPLEMENTATION OF
 8 NEW PAYMENT SYSTEM.—The Secretary shall de-
 9 velop and implement (as soon as possible after the
 10 date of enactment of this subsection), during the pe-
 11 riod described in subsection (a)(4)(B), a payment
 12 methodology for frail elderly Medicare+Choice bene-
 13 ficiaries enrolled in a Medicare+Choice plan under
 14 a specialized program for the frail elderly (as defined
 15 in paragraph (2)(A)). Such methodology shall ac-
 16 count for the prevalence, mix, and severity of chron-
 17 ic conditions among such beneficiaries and shall in-
 18 clude medical diagnostic factors from all provider
 19 settings (including hospital and nursing facility set-
 20 tings). It shall include functional indicators of health
 21 status and such other factors as may be necessary
 22 to achieve appropriate payments for plans serving
 23 such beneficiaries.

24 “(2) SPECIALIZED PROGRAM FOR THE FRAIL
 25 ELDERLY DESCRIBED.—

1 “(A) IN GENERAL.—For purposes of this
2 part, the term ‘specialized program for the frail
3 elderly’ means a program which the Secretary
4 determines—

5 “(i) is offered under this part as a
6 distinct part of a Medicare+Choice plan;

7 “(ii) primarily enrolls frail elderly
8 Medicare+Choice beneficiaries; and

9 “(iii) has a clinical delivery system
10 that is specifically designed to serve the
11 special needs of such beneficiaries and to
12 coordinate short-term and long-term care
13 for such beneficiaries through the use of a
14 team described in subparagraph (B) and
15 through the provision of primary care serv-
16 ices to such beneficiaries by means of such
17 a team at the nursing facility involved.

18 “(B) SPECIALIZED TEAM.—A team de-
19 scribed in this subparagraph—

20 “(i) includes—

21 “(I) a physician; and

22 “(II) a nurse practitioner or geri-
23 atric care manager, or both; and

24 “(ii) has as members individuals who
25 have special training and specialize in the

1 care and management of the frail elderly
2 beneficiaries.

3 “(3) FRAIL ELDERLY MEDICARE+CHOICE BEN-
4 EFICIARY DESCRIBED.—For purposes of this part,
5 the term ‘frail elderly Medicare+Choice beneficiary’
6 means a Medicare+Choice eligible individual who—

7 “(A) is residing in a skilled nursing facility
8 or a nursing facility (as defined for purposes of
9 title XIX) for an indefinite period and without
10 any intention of residing outside the facility;
11 and

12 “(B) has a severity of condition that
13 makes the individual frail (as determined under
14 guidelines approved by the Secretary).”.

15 **SEC. 3. CONTINUOUS OPEN ENROLLMENT FOR QUALIFIED**
16 **INDIVIDUALS.**

17 (a) IN GENERAL.—Section 1851(e) of the Social Se-
18 curity Act (42 U.S.C. 1395w–21(e)) is amended by adding
19 at the end the following:

20 “(7) SPECIAL RULES FOR FRAIL ELDERLY
21 MEDICARE+CHOICE BENEFICIARIES ENROLLING IN
22 SPECIALIZED PROGRAMS FOR THE FRAIL ELDER-
23 LY.—There shall be a continuous open enrollment
24 period for any frail elderly Medicare+Choice bene-
25 ficiary (as defined in section 1853(i)(3)) who is

1 seeking to enroll in a Medicare+Choice plan under
 2 a specialized program for the frail elderly (as defined
 3 in section 1853(i)(2)).”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) OPEN ENROLLMENT PERIODS.—Section
 6 1851(e)(6) of the Social Security Act (42 U.S.C.
 7 1395w–21(e)(6)) is amended—

8 (A) in subparagraph (A), by striking
 9 “and” at the end;

10 (B) by redesignating subparagraph (B) as
 11 subparagraph (C); and

12 (C) by inserting at the end of subpara-
 13 graph (A) the following:

14 “(B) that is offering a specialized program
 15 for the frail elderly (as defined in section
 16 1853(i)(2)), shall accept elections at any time
 17 for purposes of enrolling frail elderly
 18 Medicare+Choice beneficiaries (as defined in
 19 section 1853(i)(3)) in such program; and”.

20 (2) EFFECTIVENESS OF ELECTIONS.—Section
 21 1851(f)(4) of the Social Security Act (42 U.S.C.
 22 1395w–21(f)(4)) is amended by striking “subsection
 23 (e)(4)” and inserting “paragraph (4) or (7) of sub-
 24 section (e)”.

1 (c) EFFECTIVE DATE.—The amendment made by
 2 this section shall take effect on the date of enactment of
 3 this Act.

4 **SEC. 4. DEVELOPMENT OF QUALITY MEASUREMENT PRO-**
 5 **GRAM.**

6 (a) IN GENERAL.—Section 1852(e) of the Social Se-
 7 curity Act (42 U.S.C. 1395w–22(e)) is amended by adding
 8 at the end the following:

9 “(5) QUALITY MEASUREMENT PROGRAM FOR
 10 SPECIALIZED PROGRAMS FOR THE FRAIL ELDERLY
 11 AS PART OF MEDICARE+CHOICE PLANS.—The Sec-
 12 retary shall develop and implement a program to
 13 measure the quality of care provided in specialized
 14 programs for the frail elderly (as defined in section
 15 1853(i)(2)) in order to reflect the unique health as-
 16 pects and needs of frail elderly Medicare+Choice
 17 beneficiaries (as defined in section 1853(i)(3)). Such
 18 quality measurements may include indicators of the
 19 prevalence of pressure sores, reduction of iatrogenic
 20 disease, use of urinary catheters, use of anti-anxiety
 21 medications, use of advance directives, incidence of
 22 pneumonia, and incidence of congestive heart fail-
 23 ure.”.

24 (b) EFFECTIVE DATE.—The Secretary of Health and
 25 Human Services shall first provide for the implementation

1 of the quality measurement program for specialized pro-
2 grams for the frail elderly under the amendment made by
3 subsection (a) by not later than July 1, 2000.

○